

ENTERED

July 20, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SPRINGBOARDS TO EDUCATION, INC.,	§	
	§	
Plaintiff,	§	CIVIL ACTION NO. 4:16-cv-2625
	§	
v.	§	
	§	
HOUSTON INDEPENDENT SCHOOL	§	JURY TRIAL DEMANDED
DISTRICT, AUGUSTA MARKETING	§	
PRODUCTS, LLC. TARHEEL	§	
PROMOTIONS, INC. and KATHY BAKER,	§	
	§	
Defendants.		

STIPULATED ORDER REGARDING E-DISCOVERY

Springboards to Education, Inc., Houston Independent School District, and Augusta Marketing Products, LLC respectfully move the Court for entry of the proposed Order Regarding E-Discovery as follows:

1. This order supplements all other discovery rules and orders. It streamlines production of Electronically Stored Information ("ESI") to promote a "just, speedy, and inexpensive determination" of this action, as required by Federal Rule of Civil Procedure 1.
2. This Order may be modified for good cause. The parties shall jointly submit any proposed modifications within 30 days after the Federal Rule of Civil Procedure conference. If the parties cannot resolve their disagreements regarding these modifications, the parties shall submit their competing proposals and a summary of their dispute.
3. A party's meaningful compliance with this order and efforts to promote efficiency and reduce costs will be considered in cost shifting determinations.
4. General ESI production requests under Federal Rules of Civil Procedure 34 and 45 shall not include email or other forms of electronic correspondence (collectively "email"). To obtain email, parties must propound specific email production requests.
5. Email production requests shall only be propounded for specific issues, rather than general discovery of a product or service.

6. Email production requests shall identify the custodian, search terms, and time frame. The parties shall cooperate to identify the proper custodians, proper search terms, and proper timeframe.
7. Each requesting party shall limit its email production requests to a total of ten (10) custodians per producing party for all such requests. The parties may jointly agree to modify this limit without the Court's leave. The Court shall consider contested requests for up to five additional custodians per producing party, upon showing a distinct need based on the size, complexity, and issues of this specific case. Should a party serve email production requests for additional custodians beyond the limits agreed to by the parties or granted by the Court pursuant to this paragraph, the requesting party shall bear all reasonable costs caused by such additional discovery.
8. Each requesting party shall limit its email production requests to a total of ten (10) search terms per custodian per party. The parties may jointly agree to modify this limit without the Court's leave. The Court shall consider contested requests for up to five additional search terms per custodian, upon showing a distinct need based on the size, complexity, and issues of this specific case. The search terms shall be narrowly tailored to particular issues.
9. Indiscriminate terms, such as the producing party's name or its product/service name, are inappropriate unless combined with narrowing search criteria that sufficiently reduce the risk of overproduction. A conjunctive combination of multiple words or phrases (*e.g.*, "computer" and "system") narrows the search and shall count as a single search term. A disjunctive combination of multiple words or phrases (*e.g.*, "computer" or "system") broadens the search, and thus each word or phrase shall count as a separate search term unless they are variants of the same word. Use of narrowing search criteria (*e.g.*, "and," "but not," "w/x") is encouraged to limit the production and shall be considered when determining whether to shift costs for disproportionate discovery. Should a party serve email production requests with search terms beyond the limits agreed to by the parties or granted by the Court pursuant to this paragraph, the requesting party shall bear all reasonable costs caused by such additional discovery.
10. Pursuant to Federal Rule of Evidence 502(d), the inadvertent production of a privileged or work product protected ESI is not a waiver in the pending case or in any other federal or state proceeding.
11. The mere production of ESI in a litigation as part of a mass production shall not itself constitute a waiver for any purpose.
12. The production protocol is attached hereto as Exhibit 1 and incorporated herein.

SIGNED: July 19, 2017


U.S. DISTRICT JUDGE

APPROVED & ENTRY REQUESTED

Date: July 18, 2017

/s/ Valerie Wilde (by W. Stowe w/ permission)

Valerie Wilde (LEAD ATTY)

(admitted pro hac vice)

TX Bar No. 24075628

YANAROS LAW, P.C.

15851 Dallas Parkway, Suite 600

Addison, TX 75001

valerie@yanaroslaw.com

Telephone: (512) 826-7553

Facsimile: (877) 488-8983

Ruben C. DeLeon

(admitted pro hac vice)

TX Bar No. 00790577

DELEON LAW GROUP PC

15851 Dallas Parkway, Suite 600

Addison, TX 75001

rdeleon@deleonlawgroup.com

Telephone: (214) 561-8687

Facsimile: (877) 488-8983

**Counsel for Plaintiff Springboards to
Education, Inc.**

/s/ LaTasha Snipes (by W. Stowe w/
permission)

Jonathan R Spivey

(LEAD ATTY)

LaTasha Mabry Snipes

BRACEWELL LLP

711 Louisiana Street, Suite 2300

Houston, TX 77002

jonathan.spivey@bracewell.com

latasha.snipes@bracewell.com

**Counsel for Defendant Houston
Independent School District**

/s/ John K. Edwards

John K. Edwards

(LEAD ATTY)

William J. Stowe

JACKSON WALKER LLP

1401 McKinney Street, Suite 1900

Houston, TX 77010

jedwards@jw.com

wstowe@jw.com

Counsel for Defendant Augusta Group LLC

Proposed Production Protocol

Electronically Stored Information

1. ESI will be produced in Concordance (.dat) with Opticon (.opt) image load file format. ESI will be produced as Group IV, 300 DPI, single-page TIFF images. File names cannot contain spaces. All black/white images must be in 1-bit TIF images and color documents must be in 24-bit JPG files.
2. Extracted text of a document must be delivered on a document level. All text for a single document should be contained within one file. The name of the file should be the beginning bates number of the document (BEGDOC.txt). If there are non-searchable electronic documents and the text cannot be extracted, the parties agree to provide OCR text for those documents.
3. Upon request and demonstration of need, the parties will meet and confer to discuss production in an alternative load file format, to produce without load files, or to produce additional metadata on specific documents.
4. Every document referenced in a production image load file shall have all corresponding images, text, and data. Redacted text shall not be included in a redacted document's text file.
5. Every image in the delivery volume shall be contained in the image load file.
6. The image key shall be named the same as the Bates number of the page. Every image will contain a unique Bates number and a prefix that identifies the party producing the document.
7. The Concordance (.dat) load file with Opticon (.opt) Image load file format is a delimited ASCII file containing all information necessary to insert links into the magebase. The load file shall reference the metadata and coding fields below:

ESI METADATA and CODING FIELDS

FOR ALL DOCUMENTS	
BEG BATES	Beginning Bates number as stamped on the production image
END BATES	Ending Bates number as stamped on the production image
BEG ATTACH	First production Bates number of the first document in a family
END ATTACH	Last production Bates number of the last document in a family
FILE EXTENSION	Extension for file (examples: .doc, .xlsx)
MD5HASH	
CONFIDENTIALITY	As part of the load file, documents that have been marked confidential or highly confidential should also have the confidentiality field populated with the word "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL"
REDACTIONS	Any document produced with redactions will be identified with a redaction field populated with the word "REDACTION."
TEXT/OCR	Extracted text will be provided, if available, all other documents will be produced with OCR text.
FOR EMAIL DOCUMENTS	
TO	All recipients on the "TO" line
FROM	All recipients on the "FROM:" line
CC	All recipients on the "CC:" line
BCC	All recipients on the "BCC:" line
DATE/TIME	
SUBJECT	Subject line

Hard Copy Documents

1. Image will be produced in Group IV, 300 DPI, single-page TIFF format. File names cannot contain spaces.
2. A database load file (delimited text) must be produced with, at a minimum, the BEG BATES and END BATES.
3. OCR text will be delivered with all hard copy documents scanned into electronic form. All text for a single document should be contained within one file. The name of the file should be the beginning bates number of the document (BEGDOC.txt).
4. An Opticon load file (OPT) will be provided for hard copy productions.
5. A coded field will be provided for any hard copy documents that contain redactions.
6. A coded field will be provided for any hard copy document that have been marked confidential pursuant to the protective order.